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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,708	01/02/2004	Robert J. Simmons	J-BSIM.1009	3807
56703	7590	11/21/2006	EXAMINER	
ROBERT D. VARITZ, P.C. 4915 SE 33RD PLACE PORTLAND, OR 97202			A, PHI DIEU TRAN	
			ART UNIT	PAPER NUMBER
			3637	

DATE MAILED: 11/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/750,708

Applicant(s)

SIMMONS, ROBERT J.

Examiner

Phi D. A

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 3-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/6/06 has been entered.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Paragraph 4 “ ... for such a .... and superstructure” is indefinite. “ such a “ is confusing the scope of the claim.

“utilizing direct lateral engagement therebetween and the receiving column” is confusing as it is unclear what applicant is trying to claim.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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2. Claims 3-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Uecker et al (2203113).

Uecker et al discloses a building method comprising furnishing a column (15) and beam (16) structural building frame possessing a load bearing portion which is defined by nodally interconnected columns and beams, at least one column(15) is formed as a hollow tubular structure, in the at least one column, substantially immediately above a nodal connection between the mentioned one column and a beam, an upper utility region which extend above and beyond the frame's load bearing portion, which region terminates in a nominally open, upwardly facing mouth (the opening which receives part 27) which opens to the hollow interior of the at least one column to define therewith a utility port, employing the defined utility port, inserting downwardly thereinto, for stabilized insertion, reception and use, a building construction extension instrumentality selected from the list consisting of an installable/removable crane structure (25), and at least for such a crane structure and superstructure, utilizing direct lateral engagement therebetween and the receiving column utility port to furnish fully all lateral stabilization of and support for the thus port-received structure (the crane when installed, is anchored in the port per part 27, and the port provides for the holding of the crane in place; also the claim is using comprising language which does not exclude other structures from attaching to the crane), furnishing the mentioned building frame with more columns (the other columns 15) each of which is formed as a hollow, tubular structure and providing in each of those more columns upper end utility regions, utilizing the frame of nodally interconnected columns and beams including the mentioned nodal connection which exists between the at least one column and the mentioned horizontally extending beam, furnishing direct load bearing support for any

such base-seated crane with seating of a crane base in such an open column end furnishing the totality of lateral stabilization and support for the seated crane (the port provides for the holding of the crane in place and stabilized it laterally as the crane is seated on the port; also the claim is using comprising language which does not exclude other structures from attaching to the crane).

Per claim 5, Uecker et al shows all the claimed method steps and the crane structure disclosed by Uecker et al is **employable** to manipulate to install another crane structure in an adjacent utility port.

#### *Response to Arguments*

4. Applicant's arguments filed 9/6/06 have been fully considered but they are not persuasive.

Applicant states that Uecker et al does not show the step of furnishing a column and beam structural building frame, examiner respectfully sets forth that the frame shown by Uecker et al is a building frame and it is furnished/provided in a step. There is nothing in the claimed structural limitations and its steps that differentiate the frame provided by Uecker et al from the structures and steps claimed by applicant. The frame in Uecker certainly can be a column and beam structural building frame as claimed since the frame is a structural frame with columns and beams. If applicant means the frame to be building with other structures attached to the frame, applicant is invited to clearly set forth the limitations in the claims. Applicant's statement that the open ends of columns, that will become permanent parts of a completed building, is moot as "permanent parts of a completed building" is not claimed. The argument is thus moot.

With respect to "crane structures, are receivable for full and sole stabilization and lateral support within the upper, open, utility port ends of structural building frame columns, examiner

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respectfully points out that: first of all, applicant is using "comprising" language, and thus the structure/step is not exclusive; secondly, the port shown by Uecker et al, can furnish/support fully all lateral stabilization acted upon the port structure. The port supports and withstand against whatever lateral force that acts on the port. The argument is thus moot.

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 571-272-6864. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Phi Dieu Tran A

11/20/06